IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5977 OF 2007

The State of Maharashtra & Anr. .... Petitioners.

V/s

Shri Devidas Padmakar Thakare .... Respondent.

Mr. D.A. Patil, AGP for the Petitioners.

Mr. K.R. Jagdale for the Respondent.

CORAM : D.K. DESHMUKH &
V.M. KANADE, JJ.
DATE : 12th December, 2007.

P.C.:

1. Rule. Rule is made returnable forthwith. Heard finally by consent of the parties.

2. By this Petition, the Petitioners challenge the order passed by the Maharashtra Administrative Tribunal, setting aside the order passed by the Petitioners dated 13th July, 2006 rejecting the application made by the Respondent for correction of his date of birth in his service record.

3. Admittedly, the facts are that the Respondent joined the service of the Petitioners as a clerk on 15th February, 1973. On the basis of the information supplied by him, in his service book, his date of birth was entered as 3rd August,

1949. As per that date of birth, he was to retire in 2007. In the year, 2005 he made an application for correction in his date of birth. According to him, now, his death of birth is 3rd August, 1953. That application was rejected by order dated 13th July, 2006; it being belated application. The Maharashtra Administrative Tribunal was approached by the Respondent, challenging that order. The Maharashtra Administrative Tribunal has set aside that order and directed the Petitioners to consider the request of the Respondent on merit and after the Respondent gets his School Leaving Certificate corrected.

4. The learned Assistant Government Pleader appearing on behalf of the Petitioners relied upon the judgment of the Division Bench of this Court in Shaikh Abdul Hasib Abdul Mannan (Dr.) Vs. Union of India and Ors., reported in **2006(5) Mh.L.J. 310** and submitted that the law laid down by the Supreme Court is that any application made on the verge of the retirement by the government servant for correction in his death of birth cannot be entertained.

5. We have heard the learned Assistant Government Pleader for the Petitioners and the learned Counsel for the Respondent. From the order of the Maharashtra Administrative Tribunal, it is obvious that the application for change in the date of birth was made at the fag end of the service of the Respondent and that application was made even without getting his school record corrected. The

Petitioner is already retired from service in 2007. In our opinion, in view of the law laid down by the Supreme Court in series of judgments which have already been considered by the Division Bench of this Court in its judgment in Shaikh Abdul (supra), the Maharashtra Administrative Tribunal should not and could not have interfered with the order of the Petitioners dated 13th July, 2006.

6. In the result, therefore, Petition succeeds and is allowed. The order impugned in the Petition is set aside. Rule is made absolute accordingly. No order as to costs.

(D.K. DESHMUKH, J.)

(V.M. KANADE, J.)